

THE LEGISLATIVE ASSEMBLY.

SPECIAL SESSION.

Twenty-sixth Day.

MONDAY, DEC. 5, 1887.

House met at 10 o'clock, the President, S. G. Wilder, in the chair. Minutes read and confirmed.

PETITIONS.

Rep. C. Brown presented a petition for an appropriation of \$400 for a road from Niu. Referred to the Committee on Public Lands and Internal Improvements.

The same member presented a petition from Dan Lyons praying that the matter of Government printing be enquired into. Referred to the Judiciary Committee.

MINISTER ANSWERS QUESTIONS.

Minister Brown answered the questions of Rep. Kalauoka, on Saturday, about Hawaiian youths educated abroad:

1. The Government have not lost sight of the Hawaiian youths who have returned from abroad.

2. The Government at present have no suitable occupation to offer to the young gentlemen. One has been educated as a naval officer, but the abandonment of the projected navy precludes the possibility of his appointment to any position for which his education fits him in that department. Another has been educated as an artillery officer and as there is now a bill before this House providing for the appointment of a Brigadier-General, it is possible that he may obtain that position.

3. Another has been educated for the law and, provided he is capable, ought to make a good living. Another, who was receiving a medical education, has been lately recalled on account of the state of his health and will arrive shortly.

4. The remaining students will be cared for as long as they remain abroad.

REPORTS OF COMMITTEES.

Noble Castle presented the final report of the Committee on Opium and Liquor, on the petitions for the restriction of the sale of liquors:

To the Hon. S. G. Wilder, President of the Legislature:—The select committee, to which was referred a large number of petitions from various Blue Ribbon Leagues, religious bodies, temperance associations and others, praying legislation looking towards prohibitory laws, also a bill introduced by W. O. Smith, respectively reported that they have examined said petitions, and the prayers thereof are practically the same, to wit: that laws prohibiting the sale of intoxicating liquors, or very materially restricting such sale be enacted. By way of restriction the petitioners, in some cases, suggest laws:

1. To increase license fees; to compel the removal of screens from doors and windows of saloons; to prohibit licenses outside of Honolulu; to reduce the number of licenses and have them sold at auction; to permit saloons to sell only by the glass; to shorten hours of sale; to prevent the sale of liquors containing over 15 per cent. of alcohol; to prohibit hotels from selling liquors except by the bottle at the table; to have the Government reserve samples of all liquors imported for analysis; to live all intoxicated persons on the street arrested to prevent the sale of liquors to habitual drunkards, who shall be punished as convicted three times; to extend the working of the civil damage law, etc.

2. The petitions signed by members of the Blue Ribbon Leagues contain 1,015 names. These from the various societies are jointly stated by the executive officers upon resolutions adopted, and thus may fairly be said to represent several thousand people. On the other hand, there is not one petition requesting legislation in favor of liquor interests.

The committee called a public meeting, and requested the attendance of all persons who had anything to say upon the matter before the committee, and they hoped that persons would appear and present arguments in favor of license, of free liquor, or in favor of any of the views sustained by the liquor interests. This meeting was well attended, and the time occupied by animated discussion upon the whole matter. Only one person appeared and presented views other than in favor of restriction, and this gentleman favored saloons for the sale by the glass, of wine and beer of low alcoholic strength; that all these liquors, etc., imported, should be subject to inspection and confiscation if not up to a certain standard, and also in favor of restricting licenses to a small number, and raising the prices for them. He argued with some force that the whole sale and jobbing business should cost more than retail. This meeting by a large vote decided against general prohibition legislation, this session, and in favor of some restrictive laws. The meeting was valuable, as bringing some public opinion to bear directly upon the Assembly other than that expressed in the papers or covered by the petitions.

The request expressed in the large number of petitions referred to the committee is deserving of consideration by the Legislature, because that it unquestionably represents the opinion and conviction of a large, respectable and influential portion of the community. They are people who own and control property, who pay a large amount of taxes, and who are entitled to be heard. They are orderly, law-abiding and do not furnish the criminal class of the community. Not only on these grounds, but because of the intrinsic merit of the propositions advanced by them, does it become the duty of this Assembly to carefully consider any legislation intended to further restrictive measures.

Opposed to the view of this class of the community are the questions of revenue, of a large public opinion in favor of restriction as opposed to prohibition and the inadvisability of legislation ahead of public opinion. No doubt great weight is due to the opinions of those who favor a carefully guarded license system. It is this system which we have in Hawaii today. But it is a well-known fact that our restrictive laws are not enforced. There are two causes for this non-enforcement; either the laws are so far ahead of public opinion that they cannot be enforced, or the police are inefficient and careless. In the latter case, the department were in sympathy with the spirit of our laws, it is probable that some attempt would be made to carry out the law. In view of the facts which are notorious that the police not only do not try to fulfill the laws but actually shield offenders, it is bound to say that the laws are ahead of the times. What are the facts in this case? It is a fact that large numbers of people visit liquor saloons in Honolulu on Sunday and come out bearing the appearance of having had a drink. Complaint is made to the Marshal, a Sunday or two passes without the stream of people, after which it is resumed. This simply indicates that the police, instead of obeying the law which regulates police in such cities as London, Paris, New York and other places, which requires that the force shall use every effort to detect and suppress offenders, only warns offenders to be careful of their eyes will get caught. This is a severe charge, but unfortunately there are strong reasons for believing it to be true. Let the Marshal demand investigation, let an investigation be held. Let us know whether the police understand without reserve

reservation, that they are to detect offenses and bring offenders to justice. It is well known that there are holders of retail liquor licenses in Honolulu, who are faithful in their observance of the law. Such men complain and justly, that the laws are not enforced, that other retail dealers constantly infringe the law; that jobbers sell by the bottle and even retail about the city. Let these things be examined into, and let the laws we have receive enforcement, and our status will be very different. If an honest attempt is made to carry out our present statutes and that attempt fails for lack of public support, then we will begin to consider whether our laws are ahead of public sentiment, or above an honest public opinion. Till such an attempt is made it is perhaps useless to make new laws, and your committee are of the opinion that in view of the brief time yet remaining for this session by common consent, and the nearness of the regular session of 1888, it is inexpedient to undertake any general legislation at the present time.

With regard to the bill introduced by Noble Smith, the committee find that the only amendment that it makes to the existing law is to add severity to the penalties attached to the violations of the license to sell liquor. It is in some measure restoring the law of 1881—which reduced the penalty so low that a licensed dealer could violate the law without much fear, as if caught, not a very likely contingency at present, the extremely low penalty of a fine of \$25 could be inflicted. The committee regard the check proposed by the new bill as a wholesome one and recommend its passage.

WILLIAM R. CASTLE,
E. H. BAILEY,
J. WIGHT,
D. L. NAONE,
W. H. DANIELS.

The report was adopted.

Rep. C. Brown read the report of the Judiciary Committee on Noble Smith's bill amending Section 18, Chapter 44, of the laws of 1882, as amended by Chapter 3 of the laws of 1883, relating to the sale of spirituous liquors, recommending that the bill pass.

The bill passed to engrossment to be read a third time on Tuesday.

RESOLUTIONS.

Rep. C. Brown moved the following: WHEREAS, By the explanation or answer given by His Excellency the Attorney-General to the Hon. G. P. Kamauloha, the member from South Kona, it is claimed that the said Attorney-General, by and with the consent of his colleagues, has directly violated the spirit, intent and meaning of Article 20 of the Constitution.

In that he may or they have, during this extraordinary session, given the Hon. D. H. Hitchcock, an elective member of this Assembly, an office of emolument or salary under the Government, to wit: that of Crown Prosecutor for the Term of the Circuit Court for the Third Judicial District of the Kingdom, now being held at Waimea, Hawaii. Therefore, be it

Resolved, That this Assembly do censure His Majesty's Government for such violation.

Noble Castle moved an amendment to the above, that the following be inserted after the preamble. The amendment was accepted by the honorable member from Koolouloa.

Resolved, That in the opinion of the Legislature the appointment of James Bright as Deputy Attorney-General to appear on behalf of the Government at the Waimea term, it being understood that an elective member of the Legislature should do the work and receive pay therefor from the Government, is in contravention of the spirit and intent of Article 20 of the Constitution.

Rep. Kinney moved that the resolution be laid on the table until the opinion of the Supreme Court is obtained on the matter.

Noble Townsend moved the following take the place of Noble Castle's amendment:

Resolved, That the question of the constitutionality of such action be referred to the Supreme Court for their opinion.

The last two amendments were put separately and lost.

The ayes and noes were taken on the resolution as amended by Noble Castle, when there appeared:

Ayes—Dowsett, Sr., Young, Jaeger, Castle, Smith, Wight, Wall, Baldwin, Bailey, Richardson, Campbell, Makee, G. N. Wilcox, Bertelmann, Dole, Huestace, Kalauoka, Naone, Kauihi, C. Brown, F. Brown, Kamai, Maguire, Kamauloha, Nawahine, Daniels, Kawainui, A. S. Wilcox, Gay, Nakaleka, Pachole—31.

Noes—Robinson, Foster, Townsend, Deacon, Kinney, Kaulana, Paris, Helekunihui, Horner, Rice—10.

The resolution, as amended, was adopted. The House took a recess at 12:15 for one hour.

AFTERNOON SESSION.

The House resumed at 1:25 p. m.

QUESTIONS ASKED MINISTER.

Rep. F. Brown moved that the Minister of Interior inform the House of the names of Chinese firms in this city having licenses to sell liquor.

ORDER OF THE DAY.

Third reading of the bill to repeal Chapter 73, Session Laws of 1886, known as the opium license act. Passed.

The report of the committee on opium and liquor, read on Thursday, was taken from the table.

Noble Castle moved the report be adopted. Carried.

Third reading of the District Justice's bill. Passed.

Second reading of the bill to regulate Chinese immigration.

The House went into Committee of the Whole, Noble Waterhouse in the chair.

The Chinese Immigration bill was taken up, section by section. The report of the committee presented, on Friday, was also taken up.

Noble Smith moved the paragraph in Section 2, authorizing the Minister of Foreign Affairs to grant permits to Chinese to enter the Kingdom; but should the Minister and Board of Immigration deem it advisable to admit such Chinese for a specified and terminal period, a bond shall be demanded of such persons, and 20 per cent. of persons applying for permits under this section shall be women, be stricken out.

The ayes and noes were called on the motion to strike out, with the following result:

Ayes—Smith, Waterhouse, Foster, Huestace, Dowsett, Jr., Kalauoka, F. Brown, Kinney, Maguire, Kamauloha, Paris, Nawahine, Daniels, Pachole—14.

Noes—Green, G. Brown, Thurston, Ashford, Wilder, Robinson, Young, Jaeger, Castle, Wight, Wall, Townsend, Bailey, Widemann, G. N. Wilcox, Bertelmann, Dole, Naone, Kauihi, C. Brown, Deacon, Kamai, Kaulana, Helekunihui, Horner, Kawainui, A. S. Wilcox, Rice, Nakaleka—30.

Moved by Noble Widemann that paragraph 2 of Section 2 be recom-

mended to be referred to a select committee. Carried.

Rep. Kinney made a similar motion with respect to paragraph 3. Carried.

Rep. C. Brown moved the committee rise, report progress, and ask leave to sit again again at 7:30 o'clock.

Committee of the Whole rose and the House resumed.

The Chairman of the Committee reported.

The President appointed a special committee on paragraphs 2 and 3 of Section 2, consisting of Nobles Widemann and Castle, Reps. Kinney and Kawainui, and Minister Thurston.

After many motions and amendments on the subject, the House took recess to 7 o'clock.

NIGHT SESSION.

The House resumed at 7:05 p. m.

Noble Dole moved that rule 77, "No member or officer shall smoke within the Legislative Hall, etc.," be suspended at night sessions. Carried.

CHINESE IMMIGRATION BILL.

The House went into Committee of the Whole, Noble Waterhouse in the chair.

Consideration of the bill to regulate Chinese Immigration, continued from the afternoon, together with the select committee's report thereon.

Noble Smith moved that five dollars, the sum in the original bill, be charged for permits instead of two dollars as recommended by the select committee.

Noble Castle moved that two dollars be the figure.

Passed at five dollars.

The age at which children in Chinese families be granted permits free, was passed at fourteen.

Section 7 provides that ministers and teachers of any Christian denomination, when properly identified, shall receive permits without charge.

Noble Foster moved the section be struck out, as the effect of it would be to fill the country with ministers and teachers.

Lost.

The section passed.

Rep. Huestace moved an amendment to section 8 providing that a Chinaman applying for a permit be required to furnish three photographs, one to be left at the Custom House, and one to be sent to the Hawaiian Consul at Hongkong. Lost.

Section 8. No return permits shall be granted to Chinese laborers, except at the discretion of the Minister of Foreign Affairs, who shall charge a fee of \$20 for each permit granted.

On the recommendation of the select committee, this section was struck out.

Noble Smith moved to change the words "thirty days" to "six months" in the section imposing a penalty of \$200 or imprisonment for attempting to transfer a permit or to aid in doing so. Carried.

Noble Castle moved reconsideration of the penalty clause for transfers to insert the words "at hard" after imprisonment. Carried.

Rep. Kinney moved that the committee recommend to the House that paragraph 1 of section 5 be referred to the select committee previously appointed on paragraph 2 and 3.

The remaining sections passed, some with amendments, others as in the original bill.

Committee rose and the House resumed.

Committee of the Whole reported progress, and asked leave to sit again. Adopted.

REPORT OF COMMITTEE.

Minister Thurston read on suspension of the rules, the report of the special committee on the Hilo Water Works. Committee recommended generally that the bill pass, and also recommend certain amendments.

Laid on the table to be considered with the bill.

NOTICE OF NEW BILL.

The Attorney-General gave notice of a bill which he said was not properly so called, a government measure, but which was introduced at the request of a large number of the members of the House. The bill is to provide a pension for His Excellency John Owen Dominis.

The House adjourned at 9:05 to 10 o'clock Tuesday morning.

Twenty-seventh Day.

TUESDAY, DEC. 6, 1887.

House met at 10 a. m., the President, Hon. S. G. Wilder, in the chair.

Minutes read and confirmed.

ACTS READY FOR KING'S SIGNATURE.

Minister Brown read a list of ten Acts passed the House and presented to His Majesty for approval on the 5th inst.

NEW BILL.

Minister Ashford read a first time the bill given notice of, to provide a pension of \$1,800 per annum for His Ex. John Owen Dominis.

RESOLUTION.

Rep. Kamauloha moved that WHEREAS, The Board of Health evince a desire to send as many lepers as possible to Kalawao, notwithstanding the resolution passed by the House that Meekapu shall be allowed to treat some of them, therefore

Resolved, That the Board of Health be prohibited from sending any more lepers to Molokai until after the first of May.

Noble Foster moved the resolution be laid on the table.

Minister Thurston referred to the interference of the House on two former occasions with the Board of Health. The Board of Health was an executive body and if the members could not be entrusted with the discharge of their duties, without interference, they ought to be discharged. The House had no right to go down to the hospital and say who had the leprosy and who had not.

The Board of Health employed some of the ablest men of the Kingdom to examine persons alleged to be lepers. As a result of the action of the House on the two former resolutions, the Board had lost the services of Dr. Trousseau, who resigned, as he declined to be under the dictation of the lay body.

Noble Castle asked for a specific ruling of the Chair whether the House can fire a resolution at a Bureau or a subordinate department of the Government.

The Chair ruled that the resolution of the honorable member from South Kona was out of order.

QUESTIONS ASKED MINISTERS.

Rep. Pachole moved that the Minister of Interior inform the House, (1) if the Board of Health has limited the number of horses lepers are allowed

to have at Molokai, (2) if the friends attending on lepers are allowed to keep horses, (3) if those sent recently have been allowed to take horses?

Rep. Kamauloha wanted an answer from the Minister of Foreign Affairs relative to Liwai and Moses, shipped for two years on board the Kaimiloa, who, on their return, were paid for five months; and if it was true that English and American sailors had been paid three months ahead, that is, for eight months, and why the two natives had not been paid the same as the others.

(This paper was described by the interpreter as a "cross between a resolution and a question.")

Noble Smith moved the matter be laid on the table. If the men have claims, they are legal claims, to be prosecuted before the Courts.

Rep. Kalauoka asked the Atty-Gen. for information, (1) at what date he placed cases in the hands of Mr. Castle, and of Messrs. Smith and Kinney to prosecute on behalf of the Crown; (2) did he pay them; (3) has he their receipts; (4) were they instructed to prosecute these cases before or after the election?

MINISTERS ANSWER QUESTIONS.

Minister Brown answered Rep. Kamauloha's questions about Liwai and Moses, that petitions had been presented to the House by these men, acted on, and referred to the Minister of Foreign Affairs. They were shipped for two years, and discharged when the Kaimiloa was put out of commission. Men of other nationalities appealed to their Consuls, and it was found that, by the rules of the United States and British navies, men discharged summarily in foreign countries drew three months' advance pay. One of the men here referred to never performed a day's work from the day he left until he returned, and, moreover, the Government paid a substitute for him.

Minister Ashford answered Rep. Kalauoka's questions to the following effect: (1) The deputy of his department had been in bad health since August; there was about that time a heavy rush of business in the Attorney-General's department, drawing up regulations for the election, drafting measures in anticipation of this legislative session, besides a large number of criminal cases; (2) he had paid Mr. Castle a bill of \$25 for services in the Police Court; (3) had his receipt for the same; (4) had a bill of Messrs. Smith and Kinney for \$125, two prosecutions. This bill has not been paid, as the appropriation of last year for his department was exhausted.

ORDER OF THE DAY.

Third reading of Noble Smith's liquor bill. Passed.

Consideration of the military bills. The House went into Committee of the Whole on the military bills.

The Attorney-General stated that the committee to whom he two original bills were referred, had recognized and expressed the desirability of maintaining a volunteer military organization in this city. And although not expressly so stated by them, it may be fairly inferred as a part of their recommendation, that a part, at least, of this organization should consist of foreigners. He would state, merely for the information of the House, as he did not intend to take a prominent part in the discussion of the bill, that if the bill introduced by Noble Waterhouse is tabled, and if the House fails to embody in its legislation at this time the salient features of that bill, there will be no white military organization in this city at the end of the present week.

After several motions and amendments and some debate on the proper mode of procedure.

Rep. Kamauloha moved the Committee of the Whole rise and recommend to the House that the substitute bills of the majority and minority of the select committee be referred to the printing committee. Carried.

Committee rose and House resumed.

The report of the Committee of the Whole was received and adopted.

Noble Castle moved that the printing committee be instructed to have the bills printed to-morrow morning.

Rep. F. Brown, for the printing committee, said that the wishes of the honorable Noble would be carried out.

Second reading of the Hilo Water Works bill.

The bill was considered by sections and passed with amendments.

Passed to engrossment to be read a third time to-morrow.

LEAVE OF ABSENCE.

Rep. Deacon asked and obtained a leave of absence.

The House took a recess to 2 o'clock.

AFTERNOON SESSION.

The House resumed at 2 o'clock.

REPORTS OF COMMITTEES.

Noble Waterhouse reported for the Sanitary Committee on two petitions from lepers and their friends, the subject matter of which had previously been acted upon by the House, and recommended that the petitions be laid on the table.

The Finance Committee reported on the Act to repeal Chapter XXIII of the Session Laws of 1882, known by the name of the Auditor-General Act, recommending that the Act be passed.

They further recommend that the said act be referred to a select committee for alterations and amendments, said committee to report to the next session of the Legislature.

Signed, H. A. Widemann, J. Nakaleka, G. N. Wilcox.

The following is appended: I believe the present Auditor-General's Act should be preserved. Although it can be amended to advantage, there is not time to amend it at the present session. I am therefore in favor of laying the bill (referred to us) on the table.

W. O. SMITH.

Rep. C. Brown moved that the minority report be adopted.

Rep. Pachole moved the adoption of the majority report. Lost.

The same committee reported on certain bills laid before the House by the Minister of Finance.

The bill of E. C. Fishbourne is dated February 4th, the day on which or shortly after which he left the country. Any work Mr. F. may have done, was performed under a letter from C. T. Gulick, acting Minister of Finance, of November 18, 1885. No report of any work done or conclusions arrived at ever reached the Finance Department. As Mr. F. did not collect this bill himself before leaving the country, and as Mr. Gulick, who was in office for a long while after the date of the bill, did not cause it to be paid, your committee pre-

sume that the bill is not a bill that ought to be paid, and therefore recommend that the same be laid upon the table.

The bill of the Advertiser Publishing Co. dated June 22, 1887, versus the Tax Appeal Board, endorsed as correct by F. H. Hayselden and approved by the Auditor-General on June 21, 1887, for advertising tax law, your committee recommend to be returned to the maker to be presented by him to the person that ordered the printing.

Your committee recommend the same regarding the bill of the Elele Publishing Co. of May 19, 1887, for advertising tax law.

There is a fourth bill of the Elele Publishing Co. for printing 500 copies of tax law. Your committee recommend that said company be paid for this work at that rate at which they tendered to print the session laws of this session, viz., \$2.50 per page. This would make said bill read as follows:

Printing 500 copies of tax law, 44 pages at \$2.50.....\$110 00
Binding same.....16 00

Signed H. A. WIDEMANN,
J. NAKALEKA,
G. N. WILCOX,
W. O. SMITH.

ORDER OF THE DAY.

Second reading of the Governor Dominis Pension bill. Read by title.

Noble Waterhouse said he wished to be consistent. And this bill is not consistent with the action of the House during the present session on measures of a similar character. He would be one of twenty-four Nobles to put their hands in their own pockets to raise this \$1,800 for Governor Dominis. He could not conscientiously vote for the bill. He moved it be indefinitely postponed.

Noble Young said that while the bill doing away with the office of Governor was before the House it was, he knew, in the minds of some of the members to introduce and support this pension. The Hon. Noble referred to the long period of the Governor's services as an officer of Government. He was strongly in favor of economy, but at the same time he wanted to be just.

Noble Townsend said the last speaker had told the House how the Governor had served the country for many years in the office of Governor. The House had already accepted and acted upon the fact that the chief duty of the Governor's office was that of drawing his salary, and as the House had passed an Act relieving him of all other duties, it may as well relieve him of this one too. The Governor's performance of duty had been referred to, but he thought the Governor had been anything but a credit to the country. He did not believe in being too generous with other people's money.

Rep. Kinney was of the opinion that the House had put itself at sea on this question of pensions. What he conceived to be valid reasons for a pension would be (1) service, and (2) the necessity of the person proposed to be pensioned. If service is to be taken into account in this case, there is none; if the demand is based on necessity, he would move that the matter be referred to a committee to enquire into it.

Noble Smith said he should vote for this bill, because he thought it was appropriate. He had objected to hasty action on the permanent settlement bills. Governor Dominis was the husband of the Hon. Apparent. Whether he had done little service or how far his influence had been for good in the council of the nation, he was not prepared to say.

Noble Castle moved to refer the whole matter to a committee to enquire into and report at the May session.

Rep. Kalauoka opposed the bill.

Noble Wight approved of Noble Smith's views and referred to the ability and rectitude with which the Governor of Oahu had discharged his duty and to the superior class of appointments he had made to office, which were in the gift of the Governor. He had endeavored to fulfill his duties without partiality, and with due regard to the interests of the public.

Rep. Nakaleka was in favor of Noble Castle's motion. The House had tabled a petition from Napela, an aged school teacher on Molokai, who had served the public longer than Governor Dominis. If Napela's petition should wait till May, he could see no reason why the